

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \* \*

9 KEVIN FERNANDEZ, )  
10 Plaintiff, ) 3:12-cv-00401-LRH-WGC  
11 v. ) ORDER  
12 DR. CENTRIC, et al., )  
13 Defendants. )

15 Before the Court is Plaintiff Kevin Fernandez’s (“Fernandez”) Objection to the  
16 Magistrate Judge’s Order (Doc. #221<sup>1</sup>) pursuant to Local Rule IB 3-1. Doc. #228. A magistrate  
17 judge’s orders operate as final determinations of pretrial matters under 28 U.S.C. § 636(b)(1)(A)  
18 and Local Rule IB 1-3. Accordingly, a district judge may reconsider a magistrate judge’s order  
19 only if it is “clearly erroneous or contrary to law.” 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P.  
20 72(a); LR IB 3-1(a).

21 First, Fernandez objects to the Magistrate Judge’s failure to address two of the bases on  
22 which he moved for sanctions for spoliation of evidence. *See* Doc. #228, pp. 2-3. Specifically,  
23 Fernandez asserts that he sought sanctions for Defendants’ spoliation of video recordings and  
24 digital photos, as well as polygraph evidence. *See id.* Indeed the Magistrate Judge did not  
25 address these issues.<sup>2</sup> Accordingly, the Court remands for further consideration.

<sup>1</sup> Refers to the Court's docket entry number.

<sup>2</sup> It does not appear that there is, or ever was, any polygraph evidence, the destruction of which would be a requisite element of any spoilation of evidence claim. Nevertheless, the

1       Second, Fernandez objects to the Magistrate Judge's denial of his Motion as it relates to  
2 the biological evidence he preserved for testing. *See* Doc. #228. In denying his Motion, the  
3 Magistrate Judge determined that the issue was moot because the cause of action to which the  
4 biological evidence pertained was not allowed to proceed, and thus the "spoilation" evidence  
5 pertaining thereto could not be considered relevant. *See* Doc. #221, p. 4. The Court finds that  
6 the Magistrate Judge's ruling in this regard was not clearly erroneous or contrary to law.  
7 Nevertheless, Fernandez's Motion for Sanctions argued that the biological evidence was relevant  
8 to whether Defendants were justified in their admission of him into the Mental Health Unit  
9 ("MHU"), their labeling him mentally ill, and their subsequent treatment of him. *See* Doc. #151,  
10 p. 6. Specifically, Fernandez alleges that he was labeled mentally ill, in part, because he claimed  
11 that Defendants put laxatives in his food. *See id.* Because the Magistrate Judge did not address  
12 the relevancy of the biological evidence as it relates to his Eighth Amendment deliberate  
13 indifference claim, the Court remands for further consideration.

14

15       IT IS THEREFORE ORDERED that Fernandez's Objection (Doc. #228) is  
16 SUSTAINED.

17

IT IS SO ORDERED.

18

DATED this 6th day of May, 2014.

19

  
\_\_\_\_\_  
LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE

20

21

22

23

24

25

26

27

Magistrate Judge did not address the issue, and the Court is not in a position to speculate as to  
28 the Magistrate Judge's reasoning in this regard.